



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Number: **200905028**  
Release Date: 1/30/2009

Date: November 4, 2008

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

SE:TEO:RA:T:3

Uniform Issue List:  
501.03-20

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Date: March 17, 2008

XXXXX  
XXXXX  
XXXXX

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:  
XXXXX

Uniform Issue List:  
501.03-20

Legend:

M = XXXXX

x = XXXXX

Dear :

We have considered your application for recognition of exemption from Federal income tax under section 501(a) of the Internal Revenue Code ("Code"). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

You were formed under the nonprofit laws of the State of M. Your Articles provide that you were formed for any lawful purpose allowed by the statute under which you were created. Your Articles do not contain a provision regarding the distribution of your assets in the event of dissolution.

You represent that you were formed to operate Christian-oriented camps. All of the labor involved in operating the camps is done on a volunteer basis.

You offer week long fishing camps to the public that include fishing, sight-seeing, camping, and group activities. All participants are expected to pay a set fee. The camps are held from mid-June to early August each year.

The actual camp complex is rented by you from one of your directors under an ongoing Land Use Agreement. The agreement provides for rent of \$x per week for every week that the camp is occupied without providing a definition of what constitutes occupation of the site. It also provides for your reimbursement in the event that you make any real improvements to the property. The agreement can be terminated by either party with proper notice.

Your campers spend the majority of their time fishing at various locations. You represent that one or two hours of each day is devoted to a service where basic biblical truths are presented and discussed. You estimate that approximately 16% of your time is devoted to these sessions. Attendance at these sessions is not required.

You state that through various solicitations you actively invite donations of boats and equipment associated with boat operations.

You make the availability of your camps known by sending letters to past campers and through your website. Your website substantially revolves around fishing. It announces "affordable Silver King Salmon and Halibut fishing, on \_\_\_\_\_," sets forth costs to charter fishing boats, describes the kind of fishing tackle that is recommended, and provides the level of success with various lines. Your website also advertises a coffee business owned by the mother of your president and provides a link to the website of that business.

On your website, you state that you are "a private, non-profit, non-denominational corporation dedicated to providing the opportunity to combine the dream of world-class fishing in with pursuit of a deeper relationship with Jesus Christ."

#### LAW

Section 501(a) of the Code provides, in part, that organizations described in section 501(c) are exempt from federal income tax. Section 501(c)(3) provides, in pertinent part, that an organization must be organized and operated exclusively for religious, charitable, or educational purposes and that no part of its net earnings may inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("Regulations") provides that in order for an organization to be exempt under section 501(c)(3) of the Code it must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(1)(i)(a) of the Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. Further, it provides that an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Section 1.501(a)-1(c) defines the words "private shareholder or individual" in section 501 to refer to persons having a personal and private interest in the activities of the organization.

Section 1.501 (c)(3)-1(d)(1 )(ii) of the Regulations provides that an organization must be organized and operated to serve a public rather than a private interest and specifically that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests.

Better Business Bureau of Washington D.C., Inc. v. U.S., 326 U.S. 279 (1945), holds that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption, regardless of the number or importance of statutorily exempt purposes.

In Rev. Rul. 76-91, 1976-1 C.B. 149, a transaction in which a nonprofit hospital purchased all of the assets of a for-profit hospital was deemed not to result in inurement to the benefit of any private shareholder or individual. Over one-half of the board of directors of the nonprofit hospital was made up of shareholders in the for-profit hospital, but the shareholders of the for-profit hospital obtained an independent appraisal of the tangible assets of the for-profit hospital and computed the value of the intangible assets of the for-profit hospital using the capitalization of excess earnings formula. These valuations served as evidence of an arm's length transaction. Thus, the valuations saved the underlying transaction from being determined to result in inurement.

Rev. Rul. 77-366, 1977-2 C.B. 192, provides an example of a non-exempt religious travel tour organization. The organization arranged and conducted winter-time oceans cruises. The organization's stated purpose was to provide a continuing education program in an atmosphere conducive to spiritual renewal. However, its only activities consisted of the regular arranging and conducting of fourteen-day winter-time cruises on chartered ships. In addition to the usual cruise activities, the organization provided activities that furthered religious and educational purposes. The programs conducted on each cruise included a schedule of lectures, discussion groups, and special interest workshops on religious topics, at which attendance was not required. For approximately four hours on each of the nine days the ship was at sea, theologians and religiously-oriented psychologists led lectures, discussions, and workshops. The remainder of the time was available for meals, recreational activities, and social functions. Certain activities of the organization, specifically the lectures, discussions, workshops, and some of the activities on shore, furthered charitable purposes. However, the substantial amount of time, energy, and other resources regularly devoted to the conduct of extensive social and recreational activities demonstrated that the organization's conduct of such social and recreational activities served substantial independent purposes of a non-charitable nature.

In Rev. Rul. 77-430, 1977-2 C.B. 194, an organization which operated a religious retreat where recreational facilities were available was recognized as exempt. The organization's activities were conducted at a rural lakeshore site donated to it by its founder. Although no fees were charged for the retreats, participants were encouraged to contribute to the organization to whatever extent possible. Activities of a religious nature were scheduled on an hourly basis throughout the day. Although no recreational activities were scheduled, there was a limited

amount of free time in which the participants could relax and enjoy the facilities. The revenue ruling determined that the use of these facilities under these circumstances were incidental to the organization's purpose of advancing religion.

## ANALYSIS

You do not qualify for exemption under section 501(c)(3) of the Code for a number of reasons. First, you do not satisfy the requirements of the organizational test described in section 1.501(c)(3)-1(b) of the Regulations. Section 1.501(c)(3)-1(a)(1)(i)(a) provides that an organization's articles must limit its purposes to one or more exempt purposes. Your Articles provide that you were formed for "any lawful purpose." Accordingly, your purposes are not limited to exempt purposes.

In addition, Section 1.501(c)(3)-1(b)(4) of the regulations provides that an organization's assets must be dedicated to an exempt purpose. Your Articles do not contain a provision describing how your assets will be distributed in the event you dissolve. In addition, the State of M does not satisfactorily distribute assets by operation of law upon dissolution. Accordingly, your assets are not dedicated to an exempt purpose.

Nor do you satisfy the operational test described in section 1.501(c)(3)-1(c) of the Regulations. An organization described in section 501(c)(3) of the Code must be organized and operated exclusively for charitable, religious, educational, scientific, and literary purposes, among others. Thus, in order for you to satisfy the operational test, you must show that you are operated exclusively for one of the purpose set forth in section 501(c)(3) of the Code.

The revenue rulings described above illustrate the type of organizations that will satisfy the operational test by holding religious retreats. You are similar to the organization described in Rev. Rul. 77-366. Although that organization held four hours of religious instruction a day, attendance at the sessions was not required, further, during the remainder of each day participants were free to engage in social and recreational activities. The revenue ruling held that the organization's conduct of social and recreational activities serve substantial independent purposes of a noncharitable nature. Like the organization described in Rev. Rul. 77-366 and unlike the organization described in Rev. Rul. 77-430, your religious activities constitute a minor part, 16%, of your overall activities and attendance at these religious activities is optional.

The remainder of your scheduled activities focus on fishing and socializing. As such, your primary activity and purpose is the operation of a fishing camp. Your religious activities are incidental to your social and recreational activities. The operation of a fishing camp, in this context, is not an activity which furthers one or more exempt purposes. Thus, you are not being operated exclusively for one or more exempt purposes.

Furthermore, you are engaged in activities that result in inurement and private benefit. Through the operation of your website you advertise a business owned by the mother of your president. You state that the purpose of the reference to this particular business is to generate web-traffic for the business. Additionally, you entered into a Land Use Agreement with one of your directors and have not proven that the agreement was entered at arm's length and for fair market value as required by Rev. Rul. 76-91. These activities provide a substantial private benefit to the

mother of your president and, potentially, result in inurement of a portion of your net earnings to one of your directors.

An organization must establish that it operates exclusively for charitable purposes and, thus, will not qualify for exemption under section 501(c)(3) of the Code if it has a single non-charitable purpose that is substantial in nature. An organization is not operated exclusively for exempt purposes if its net earnings inure in whole or in part to the benefit of private individuals. See Better Business Bureau v. United States, *supra*.

You were formed for the substantial non-exempt purpose of operating a camp, the primary purpose of which is recreational and social in nature. Further, you operate for the benefit of the mother of your president by promoting her business and, potentially, for the benefit of one of your directors through operation of the Land Use Agreement. Accordingly, you serve a private rather than public purpose.

#### CONCLUSION

Based on the information provided in your Form 1023 and supporting documentation, we conclude that you are not operated exclusively for purposes described in section 501(c)(3) of the Code. You have not shown that your primary purpose is an exempt purpose and have not shown that your assets do not inure to any private individual.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

*Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to protest

as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service  
TE/GE (SE:T:EO:RA:T:3)

1111 Constitution Ave, N.W.  
Washington, DC 20224

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements